

EXHIBIT 3

February 1, 2021 response email from Ranieri acknowledging receipt of
Proof of Claim No. 392

From: Joan_Ranieri@paeb.uscourts.gov,

To: gsmolker@aol.com,

Subject: RE: Proof of Claim dated 6/6/01 filed in U.S. Bankruptcy Court, District of Delaware on August 27, 2001

Date: Mon, Feb 1, 2021 11:38 am

Attachments:

Please submit pleadings to the Court in Delaware for docketing if they are to be part of the case record.

Judge Chan has access to that docket and can view the document on it.

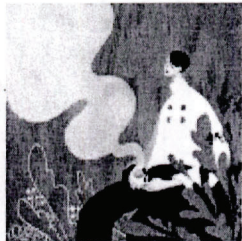
Joan Ranieri

Courtroom Deputy to Judge Ashely M. Chan

United States Bankruptcy Court

Eastern District of Pennsylvania

~ ~ ~ ~ ~



From: Gary Smolker <gsmolker@aol.com>

Sent: Monday, February 1, 2021 1:26 PM

To: Joan Ranieri <Joan_Ranieri@paeb.uscourts.gov>

Cc: rhiggins@rogerhigginslaw.com; joneill@pszlw.com

Subject: Re: Proof of Claim dated 6/6/01 filed in U.S. Bankruptcy Court, District of Delaware on August 27, 2001

CAUTION - EXTERNAL:

February 1, 2021

Ms. Ranieri:

Attached is a copy of the "PROOF OF CLAIM" discussed at the hearing this morning.

Very truly yours,

Gary S. Smolker, Claimant, In Pro Per

Email: GSmolker@aol.com

Cell Phone: 1-310-749-9735

Office Phone: 1-818-788-7290

-----Original Message-----

From: Gary Smolker <gsmolker@aol.com>

To: Joan_Ranieri@paeb.uscourts.gov <Joan_Ranieri@paeb.uscourts.gov>

Cc: rhiggins@rogerhigginslaw.com <rhiggins@rogerhigginslaw.com>; joneill@pszlw.com <joneill@pszlw.com>

Sent: Mon, Feb 1, 2021 10:21 am

Subject: Proof of Claim dated 6/6/01 filed in U.S. Bankruptcy Court, District of Delaware on August 27, 2001

February 1, 2021

Ms. Ranieri,

Attached is a copy of the PROOF OF CLAIM which we discussed at the hearing a few minutes ago.

The Proof of Claim is dated 6/6/01.

Apparently it was filed in the US Bankruptcy Court for the District of Delaware on August 27, 2001.

It states: BASIS FOR CLAIM:

- Personal injury
- Property damage

AMOUNT OF CLAIM AT TIME CASE FILED: "Unliquidated claim in excess of \$3500,000.00"

Very truly yours,

Gary S. Smolker, Claimant, In Pro Per

Email: GSmolker@aol.com

Cell Phone: 1-310-749-9735

Office Phone: 1-818-788-7290

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EXHIBIT 4

January 4, 2021 (12:11pm)

Email from O'Neil to Ranieri requesting a telephone conference with Judge Chan

From: jo'neill@pszjlaw.com,
To: Joan_Ranieri@paeb.uscourts.gov,
Cc: gsmolker@aol.com, rhiggins@rogerhigginslaw.com,
Subject: WR Grace
Date: Mon, Jan 4, 2021 12:11 pm

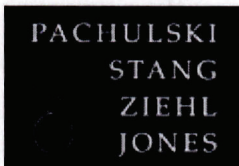
Attachments:

Good afternoon. Grace has received an extension request from Mr. Smolker. Would it be possible to have a telephonic conference with Judge Chan to discuss?

Mr. Smolker has indicated he is not available on 1/6 so please let us know if there is time available on 1/7 or 1/8 or as soon thereafter as the Court is available.

Thank you.

James O'Neill
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 302.778.6407
Tel: 302.652.4100 | Cell: 302.438.1615 | Fax: 302.652.4400
jo'neill@pszjlaw.com
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EXHIBIT 5

January 4, 2021 (12:56pm)

Email from Ranieri to O'Neil setting up telephone conference with Judge Chan on January 8, 2021 at 10:00am

From: Joan_Ranieri@paeb.uscourts.gov,
To: jo'neill@pszjlaw.com,
Cc: gsmolker@aol.com, rhiggins@rogerhigginslaw.com,
Subject: RE: WR Grace
Date: Mon, Jan 4, 2021 12:56 pm

Attachments:

Good afternoon, Judge Chan would like to set up a telephonic conference for Friday, January 8, 2021 at 10:00 a.m. regarding Mr. Smolker's request.

Call in procedure has not changed. Please Dial: 877-873-8017 and Access Code: 3027681#

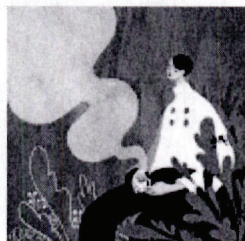
Joan Ranieri

Courtroom Deputy to Judge Ashely M. Chan

United States Bankruptcy Court

Eastern District of Pennsylvania

~ ~ ~ ~ ~



From: James O'Neill <jo'neill@pszjlaw.com>
Sent: Monday, January 4, 2021 3:12 PM
To: Joan Ranieri <Joan_Ranieri@paeb.uscourts.gov>
Cc: 'Gary Smolker (gsmolker@aol.com)' <gsmolker@aol.com>; 'rhiggins@rogerhigginslaw.com' <rhiggins@rogerhigginslaw.com>
Subject: WR Grace

CAUTION - EXTERNAL:

From: jo'neill@pszjlaw.com,
To: Joan_Ranieri@paeb.uscourts.gov,
Cc: gsmolker@aol.com, rhiggins@rogerhigginslaw.com,
Subject: WR Grace
Date: Mon, Jan 4, 2021 12:11 pm

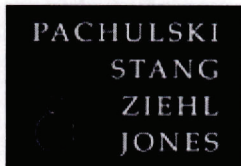
Attachments:

Good afternoon. Grace has received an extension request from Mr. Smolker. Would it be possible to have a telephonic conference with Judge Chan to discuss?

Mr. Smolker has indicated he is not available on 1/6 so please let us know if there is time available on 1/7 or 1/8 or as soon thereafter as the Court is available.

Thank you.

James O'Neill
Pachulski Stang Ziehl & Jones LLP
Direct Dial: 302.778.6407
Tel: 302.652.4100 | Cell: 302.438.1615 | Fax: 302.652.4400
jo'neill@pszjlaw.com
[vCard](#) | [Bio](#) | [LinkedIn](#)



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Good afternoon. Grace has received an extension request from Mr. Smolker. Would it be possible to have a telephonic conference with Judge Chan to discuss?

Mr. Smolker has indicated he is not available on 1/6 so please let us know if there is time available on 1/7 or 1/8 or as soon thereafter as the Court is available.

Thank you.

James O'Neill

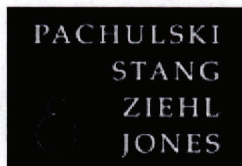
Pachulski Stang Ziehl & Jones LLP

Direct Dial: 302.778.6407

Tel: 302.652.4100 | Cell: 302.438.1615 | Fax: 302.652.4400

jo'neill@pszjlaw.com

[vCard](#) | [Bio](#) | [LinkedIn](#)



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EXHIBIT 6

January 4, 2021 (2:16pm)

Email from Smolker to Ranieri objection/ objecting to Judge Chan having a status conference to discuss Smolker's request that Grace Attorneys agree to a new schedule for hearing Grace's Pending Motion for Summary Judgement. Smolker requests that Judge Chan allow Smolker to file an opposition to Grace's request for a status conference before January 16 and that Judge Chan not conduct that hearing until after January 16.

From: gsmolker@aol.com,

To: Joan_Ranieri@paeb.uscourts.gov, jo'neill@pszjlaw.com,

Cc: rhiggins@rogerhigginslaw.com,

Subject: #3 Re: WR Grace

Date: Mon, Jan 4, 2021 2:16 pm

Attachments:

January 4, 2020

Ms. Ranieri

Mr. O'Neil did not accurately or fully explain the situation.

Mr. Higgins notified me that Grace instead of agreeing to my request for more time to respond to GRACE'S motion for summary judgment would be reaching out to Judge Chan to arrange for another status conference to discuss my request to GRACE'S attorneys to agree to a new schedule for hearing GRACE'S pending motion for summary judgment.

The new schedule I proposed would use the existing reserved hearing date of March 25 for hearing my motion for sanctions as the new hearing date for GRACE'S motion for summary judgment which would grant me more time to file additional papers in opposition to GRACE'S pending motion for summary judgement.

I advised Mr. Higgins (in writing with a copy to Mr. O'Neill) that Mr. Higgin's proposed procedure of having Judge Chan conduct a hearing in a few days was in fact actuality an attempt to bypass the provisions of Rule 6(b)(1) of the Federal Rules of Civil Procedure which specifies that notice of hearing (with few exceptions) must be given at least 14 days prior to the date of a hearing.

I also notified Mr. Higgins and Mr. O'Neill, in writing:

"I am in the process of writing a formal "Motion for Additional Time to File Additional Pleadings and Papers in Opposition to GRACE'S pending motion for summary judgment."

I have brought to Mr. Higgin's and Mr. O'Neill's attention that Federal Rules of Civil Procedure Rule 56 (d) provides that if a non-movant shows by affidavit or declaration, that for specified reasons cannot present facts essential to justify its opposition the Court may (1) defer considering the motion, (2) allow time to obtain affidavits or declarations or to take discovery, or (3) issue any appropriate order.

On December 30, Federal Express delivered to the Clerk's office my Declaration in Opposition to GRACE's pending motion with attached exhibits.

My declaration with attached exhibits weighs approximately 50 pounds.

It was not practical or possible to put together all the documentation I wish to present in opposition to GRACE'S pending motion for summary judgment and to have those documents filed with the court by December 30, 2020.

In my Declaration In Opposition to GRACE'S motion I state, under penalty of perjury,

"I did not have enough time to file objections to the facts asserted by GRACE or to make objections to the Declaration of Rosemary Lewis, or to write a memorandum of points and authorities, or to write a statement of uncontestable facts.

"GRACE'S Motion for Summary Judgment did not follow the procedures set forth in Rule 56 of the Federal Rules of Civil Procedure.

"If I am given more time to prepare and file those additional papers, I will clearly demonstrate that GRACE'S Motion for Summary Judgment should be denied."

If GRACE persists in demanding a hearing for guidance I request that Judge Chan allow me to file an opposition to GRACE'S request for hearing on or before January 16, and that Judge Chan not conduct that hearing until after January 16.

The procedure Mr. O'Neill and Mr. Higgins have begun - which has so far resulted in Judge Chan scheduling a hearing at 10:00 a.m. (ET) which is 7:00 a.m. (PT), where I live and work, deprives me of an opportunity to provide a declaration specifying specific reasons why I need more time to gather and present additional pleadings in opposition to GRACE'S pending motion for summary judgment.

I will send you a copy of the email I sent to Mr. Higgins and to Mr. O'Neill at 10:56 a.m. (California time) this morning (January 4, 2021) in response to Mr. Higgins notification to me that GRACE will ask Judge Chan to have another status conference instead of following procedures regarding time between notification of hearing and time of conducting a hearing, specified in the Federal Code of Civil Procedure.

Very truly yours,

Gary S. Smolker

Gary S. Smolker, In Pro Per
16055 Ventura Blvd., Suite 525
Encino, CA 91436

Email: GSmolker@aol.com

Cell Phone: 1-310-749-9735

Office Phone: 1-818-788-7290

-----Original Message-----

From: Joan Ranieri <Joan_Ranieri@paeb.uscourts.gov>

To: James O'Neill <jo'neill@pszjlaw.com>

Cc: 'Gary Smolker (gsmolker@aol.com)' <gsmolker@aol.com>; 'rhiggins@rogerhigginslaw.com' <rhiggins@rogerhigginslaw.com>

Sent: Mon, Jan 4, 2021 12:56 pm

Subject: RE: WR Grace

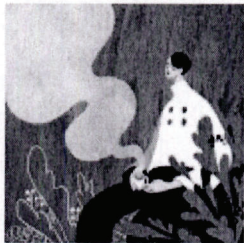
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Call in procedure has not changed. Please Dial: 877-873-8017 and Access Code: 3027681#

Joan Ranieri
Courtroom Deputy to Judge Ashely M. Chan

United States Bankruptcy Court
Eastern District of Pennsylvania

~ ~ ~ ~ ~



From: James O'Neill <jo'neill@pszjlaw.com>

Sent: Monday, January 4, 2021 3:12 PM

To: Joan Ranieri <Joan_Ranieri@paeb.uscourts.gov>

Cc: 'Gary Smolker (gsmolker@aol.com)' <gsmolker@aol.com>; 'rhiggins@rogerhigginslaw.com' <rhiggins@rogerhigginslaw.com>

Subject: WR Grace

CAUTION - EXTERNAL:

Good afternoon. Grace has received an extension request from Mr. Smolker. Would it be possible to have a telephonic conference with Judge Chan to discuss?

Mr. Smolker has indicated he is not available on 1/6 so please let us know if there is time available on 1/7 or 1/8 or as soon thereafter as the Court is available.

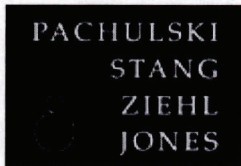
Thank you.

James O'Neill

Pachulski Stang Ziehl & Jones LLP

Direct Dial: 302.778.6407

Tel: 302.652.4100 | Cell: 302.438.1615 | Fax: 302.652.4400

jo'neill@pszjlaw.com[vCard](#) | [Bio](#) | [LinkedIn](#)

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EXHIBIT 7

January 4, 2021 (2:30pm)

Email from Higgins and O'Neil, copy to Ranieri: objecting to January 6, 2021 status conference requested by GRACE requesting that hearing be held at 9:00am California time and informing GRACE that Smolker is preparing a formal " Motion for Additional Time to file Additional Pleading and Exhibits" and explaining why Smolker is asking for more time to respond to GRACE's pending motion for Summary Judgment.

From: gsmolker@aol.com,
To: Joan_Ranieri@paeb.uscourts.gov,
Cc: jo'neill@pszjlw.com, joneill@pszjlw.com, rhiggins@rogerhigginslaw.com,
Subject: Fwd: FRCP Rule 56 (d), Rule 6(b) Formal Motion for Extension of Time to File Additional Documents in Opposition to GRACE Motion for Summary Judgment
Date: Mon, Jan 4, 2021 2:30 pm

Dear Courtroom Deputy Joan Ranieri

Having a hearing at 7:00 a.m., my time here in California, is inconvenient.

If we must have a hearing on Friday, January 8, 2021 I request that we please have the hearing after 9:00 a.m. (California time) which would be after 12:00 noon on the East Coast.

Below is a copy of the email I sent to both Mr. Higgins and Mr. O'Neill this morning.

The first time I sent that email to Mr. O'Neill, it didn't go through because I had made a typographical mistake when typing.

I resent the email to Mr. O'Neill at his correct e-mail address shortly after I had sent it to the wrong address.

Very truly yours,

GARY SMOLKER

Gary S. Smolker, In Pro Per
16055 Ventura Blvd., Suite 525
Encino, California 91436

Email: GSmolker@aol.com

Cell Phone: 1-310-749-9735
Office Phone: 1-818-990-9888

-----Original Message-----

From: Gary Smolker <gsmolker@aol.com>
To: rhiggins@rogerhigginslaw.com <rhiggins@rogerhigginslaw.com>; joneill@pszjlw.com <joneill@pszjlw.com>
Sent: Mon, Jan 4, 2021 10:56 am
Subject: FRCP Rule 56 (d), Rule 6(b) Formal Motion for Extension of Time to File Additional Documents in Opposition to GRACE Motion for Summary Judgment

January 4, 2021

Mr. Higgins,

TIMING OF HEARING ON REQUEST FOR ADDITIONAL TIME

It is not convenient to me to have a status conference on January 6, 2021 to discuss my need to have additional time to file more pleadings and documents in opposition to GRACE'S pending motion for summary judgment.

3/9

Attached to that document are 17 exhibits. In the package I received, there is also a document entitled:

California Food & Agriculture Code Sections

Can you confirm that this is what you sent to the Clerk of Court's office for filing?

Please also confirm that you have filed no other documents by separate correspondence.

Many thanks, and

Warmest Regards. R

Roger J. Higgins

THE LAW OFFICES OF ROGER HIGGINS, LLC

516 N. Ogden Ave

Suite 136

Chicago, IL 60642

United States

Tel: (312) 480-1984

e-mail: rhiggins@rogerhigginslaw.com

www.rogerhigginslaw.com

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From: Gary Smolker <gsmolker@aol.com>

Sent: Thursday, December 31, 2020 5:21 PM

To: Roger Higgins <rhiggins@rogerhigginslaw.com>

Cc: jo'neill@pszjlaw.com

Subject: #2 Re: Request for Extension of Time to File Additional Documents in Opposition to GRACE Motion for Summary Judgment

December 31, 2020

Mr. Higgins,

I sent you a copy of the documents to be filed in Bankruptcy Court on December 30, 2020 and I sent a copy of those documents to Mr. O'Neil by Federal Express Standard Overnight Mail on December 29, 2020.

I sent the original of those documents to be filed the United States Bankruptcy Court for the District of Delaware on December 30, by Federal Express Priority Overnight Mail on December 29, 2020.

I don't know what the Bankruptcy Court's Clerk's Office story is. The documents were guaranteed to be delivered to the Clerk's office by 10:00 a.m. on December 30, 2020.

One set of the documents were supposed to be delivered to you, and another set of the documents were supposed to be delivered to Mr. O'Neill yesterday (December 30, 2020).

I paid Federal Express \$182.55 to complete all three deliveries on December 30, 2020, as indicated above on.

Did either you or Mr. O'Neill receive or not receive delivery of those documents?

I have not yet scanned in the 4.9 pound of pages of documents sent to you.

It took all day, on December 29, with two photocopies machines running throughout the day to make four sets of those documents.

One set of copies was made for you, one set was made for Mr. O'Neill, one set was made for me, and one set was made for the Court.

It was a big job copying exhibits because my file copy of the exhibits had tabs for each exhibit which had to be removed before the exhibit was photocopied. Then a separate page had to be prepared specifying the Exhibit number of the exhibit copied.

The Exhibit Numbers were hand written.

Additionally copies were made of sections of the California Code of Civil Procedure referred to, and of sections of the California Rules of Court. and of the California Food & Agricultural Code sections which were sent to the Court, and sent to each one of you

6/9

Subject: RE: Request for Extension of Time to File Additional Documents in Opposition to GRACE Motion for Summary Judgment

I am in receipt of the e-mail attached below. I am a little unclear on matters.

There has been no docket entry yet.

Many thanks, and

Warmest Regards. R

THE LAW OFFICES OF ROGER HIGGINS, LLC

e-mail: rhiggins@rogerhigginslaw.com

<https://mail.aol.com/webmail-std/en-us/printMessage>

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From: Gary Smolker <gsmolker@aol.com>

Sent: Thursday, December 31, 2020 3:01 PM

To: Roger Higgins <rhiggins@rogerhigginslaw.com>; joneill@pszjlaw.com

Subject: Request for Extension of Time to File Additional Documents in Opposition to GRACE Motion for Summary Judgment

December 31, 2020

Mr. Higgins and Mr. O'Neil:

I request that GRACE grant me until January 15, 2021 to file my response and objections to GRACE'S pending motion for summary judgment and that GRACE agree to the following schedule for filing pleadings and other documents and for hearing date.

1. By January 15, 2021 at 4:00 P.M. (EST) SMOLKER shall file SMOLKER'S additional pleadings and additional documents in response to and in objection to GRACE'S pending Motion for Summary Judgment.
2. By February 16, 2021 at 4:00 P.M. (EST) GRACE shall file its REPLY, if any to SMOLKER'S OBJECTIONS to GRACE'S Motion for Summary Judgment.
3. On March 21, 2021 at 11:00 A.M. (PST) the Court, US Bankruptcy Judge Ashely Chan, Judge Presiding will conduct a telephonic hearing on GRACE'S Motion for Summary Judgment.

Agreeing to this proposal (1) will allow me to comment in a writing submitted to the Court on documents produced by GRACE at my office before January 10, 2021, on GRACE'S production of documents (or failure to produce documents) at my office specified to be produced at my office on or before January 27, 2021, and (2) will give GRACE more time to review, and digest, the 49.9 pounds of documents sent to each of you on December 15, 2020 by me via Federal Express Overnight Mail.

